

ORIGINAL

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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MAY 07 2007 Agy

at 3 o'clock and 30 min. P.M.
SUE BEITIA, CLERK

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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

VERNA McDONALD,) Civ. No. **CV07 00221 HG KSC**
Plaintiff,) (Non-Motor Vehicle Tort)
vs.) COMPLAINT; SUMMONS
Defendants.)

)

COMPLAINT

Comes now Plaintiff Verna McDONALD above named, by and through her attorneys, the Law Offices of STUART M. COWAN, and respectfully alleges and avers as follows:

1. This action arises and jurisdiction in this Court is invoked under the provisions of 28 USC 1332(a)(2).
2. Plaintiff Verna McDONALD is a resident and citizen of the

State of Texas.

3. Defendant POLYNESIAN ADVENTURE TOURS, INC. (hereafter referred to as "Polynesian") is a Hawaii corporation with its principal place of business in the State of Hawaii.

4. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. 1332. In the event that the court rules that this case does not come under diversity of citizenship jurisdiction, then Plaintiff elects to proceed under the admiralty jurisdiction of this court.

5. Defendants JOHN DOES 1-10, JANE DOES 1-10, DOE PARTNERSHIPS 1-10, DOE CORPORATIONS 1-10; ROE "NON-PROFIT" CORPORATIONS 1-10; AND ROE GOVERNMENTAL ENTITIES 1-10, are sued herein under fictitious names because their true names and capacities, whether individual, corporate, associate or otherwise are unknown to Plaintiff, but were in some manner presently unknown to Plaintiff engaged in the activities alleged herein; and/or were in some manner responsible for the injuries and damages to Plaintiff. When the true names and capacities are ascertained, Plaintiff asks leave to amend this Complaint to state the true names.

6. On April 6, 2006, in Hanapepe, Kauai, Hawaii, Defendant Polynesian through its agents, servants and employees, so carelessly and negligently operated a certain bus and equipment appertenant thereto owned by said Defendant so as to cause

Plaintiff in her wheelchair, to fall from an elevator lift while being board upon the bus.

7. Defendant carelessly and negligently maintained said wheelchair lifting equipment so as to cause same to malfunction causing said injuries as aforesaid.

8. As a direct and proximate result of Defendant's above-described negligence and carelessness, Plaintiff has suffered severe injury to her body and legs great suffering, emotional pain, suffering, mental distress, mental agony which has significantly deprived her of her enjoyment of life on account of which she claims general damages in an amount to be shown at trial.

9. As a further direct and proximate result of Defendants' above-described negligence and carelessness, Plaintiff suffered serious and permanent physical injury that has and continues to restrict severely her already limited abilities and significantly deprives her of enjoyment of life and the vacation during which this incident occurred.

10. As a further result, Plaintiff has been caused to incur expenses for medical and rehabilitative care and attention, and other expenses in connection with her injuries and claims special damages therefor as shall be shown at trial.

WHEREFORE, Plaintiff demands judgment against all of the foregoing Defendants, jointly and severally, as follows:

1. General Damages in an amount to be established at the

time of trial.

2. Special Damages in an amount to be established at the time of the trial.

3. Prejudgment interest from the date of the accident, costs, reasonable attorneys' fees, and such other and further relief as may be deemed just and equitable in the premises.

Dated: Honolulu, Hawaii MAY 7 2007.

STUART M. COWAN
Attorney for Plaintiff